

## Chapter 16-157 WAC

### ORGANIC FOOD STANDARDS AND CERTIFICATION

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#### PART I GENERAL PROVISIONS

**WAC 16-157-010 Purpose.** This chapter is promulgated pursuant to RCW 15.86.060 wherein the director is authorized to adopt rules for the proper administration of the Organic Food Products Act and pursuant to RCW 15.86.070 wherein the director is authorized to adopt rules establishing a certification program for producers, processors and handlers of organic and transitional food.

**WAC 16-157-020 Adoption of the National Organic Program.** The 2001 National Organic Program final rule, 7 CFR Part 205, effective April 21, 2001, is adopted by reference as Washington state standards for the production and handling of organic crops, livestock and processed food products. The 2001 National Organic Program final rule may be obtained from the department.

**WAC 16-157-030 Definitions.** As used in this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department of agriculture or his or her duly authorized representative.

(3) "Facility" includes, but is not limited to, any premises, plant, establishment, facilities and the appurtenances thereto, in whole or in part, where organic food is prepared, handled, or processed in any manner for resale or distribution to retail outlets,

restaurants, and any such other facility selling or distributing to the ultimate consumer.

(4) "New applicant" means any person that applies for organic certification for the first time, or when previous certification status has expired for at least one year.

(5) "Processor" means any handler engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, slaughtering or otherwise processing organic food.

(6) "Renewal applicant" means any person that has received organic certification from the department in the previous year.

(7) "Retailer" means any handler that sells organic food products directly to consumers.

(8) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

(9) "Site" means a defined field, orchard, block, pasture, paddock, garden, circle, plot or other designated area.

(10) "Transitional product" means any agricultural product that (a) is marketed using the term transitional in its labeling and advertising and (b) satisfies all of the requirements of organic except that it has had no applications of prohibited substances within one year prior to the harvest of the crop.

#### PART II ORGANIC PRODUCTION AND HANDLING STANDARDS

##### **WAC 16-157-120 Organic mushroom standard.**

(1) The producer must maintain a production environment that prevents contact between organically produced mushrooms and prohibited substances throughout the entire growing cycle, harvesting and post-harvesting process. The producer must not use lumber treated with arsenate or other prohibited materials for new installations or replacement purposes in contact with the growth substrate.

(2) Organic and nonorganic production must be in separate facilities and have separate ventilation systems.

(3) The producer must use organically produced spawn.

(4) The producer may use nonorganic agar medium that may contain antibiotics not to exceed 1/25th of a gram per liter of agar mix.

(5) Agricultural materials including grain and straw that are used in production substrate must be organically produced. Sawdust, logs or other materials

derived from wood used as a growth substrate must originate from trees that have been grown in areas free of prohibited materials for at least three years, and must not have been treated with a prohibited substance after tree harvest. Producers may include nonsynthetic, nonagricultural materials in substrate used to produce mushrooms.

(6) All growing medium amendments must be certified organic.

(7) Manure and any nonorganic agricultural material used as a growth substrate must be from an organic source. Compost used as a growth substrate must consist of certified organic feedstocks.

### PART III ORGANIC CERTIFICATION

**WAC 16-157-210 Confidentiality.** Except for applications and laboratory analyses submitted for certification under this chapter, the department keeps confidential any business-related information obtained under this chapter. All business-related information submitted to the department under this chapter is exempt from public inspection and copying consistent with RCW 15.86.110 and 42.17.310.

**WAC 16-157-220 Producer fee schedule.** Producers who wish to apply for the organic food certification program must apply to the department each year.

(1) The cost per application shall be based on the following fee schedule.

(a) Renewal applicants -

Application fees must be based on the previous calendar year's sales of organic food. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the producer may request a refund for the reduced fee. In addition, renewal applications postmarked after March 1, must pay a late fee of seventy-five dollars. Renewal applicants that are adding additional sites to their organic certification must pay a new site fee of fifty dollars for each additional site.

(b) New applicants -

Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the producer for the additional fee. In the event that the current calendar year's sales are less than the estimate, the producer may request a refund for the reduced fee. In addition, new applicants must pay a one\_hundred dollar new applicant fee. New applicants that are seeking organic certification for more than one site must pay a site fee of fifty dollars for each additional site. The fee shall accompany the application.

SALES		ANNUAL FEE	
\$ 0	- \$ 15,000	.....	\$ 200
\$ 15,001	- \$ 20,000	.....	\$ 225
\$ 20,001	- \$ 25,000	.....	\$ 280
\$ 25,001	- \$ 30,000	.....	\$ 335
\$ 30,001	- \$ 35,000	.....	\$ 390
\$ 35,001	- \$ 42,500	.....	\$ 470
\$ 42,501	- \$ 50,000	.....	\$ 560
\$ 50,001	- \$ 65,000	.....	\$ 670
\$ 65,001	- \$ 80,000	.....	\$ 835
\$ 80,001	- \$ 100,000	.....	\$ 1,000
\$100,001	- \$ 125,000	.....	\$ 1,150
\$125,001	- \$ 150,000	.....	\$ 1,300
\$150,001	- \$ 175,000	.....	\$ 1,450
\$175,001	- \$ 200,000	.....	\$ 1,600
\$200,001	- \$ 240,000	.....	\$ 1,750
\$240,001	- \$ 280,000	.....	\$ 1,900
\$280,001	- \$ 325,000	.....	\$ 2,050
\$325,001	- \$ 375,000	.....	\$ 2,200
\$375,001	- \$ 425,000	.....	\$ 2,450
\$425,001	- \$ 500,000	.....	\$ 2,700
\$500,001	- \$ 750,000	.....	\$ 3,000
\$750,001	- \$7,000,000	.....	\$ 2,200
		plus 0.11% of gross organic sales	
Over	\$7,000,000	.....	\$10,000

(2) Transitional acreage fee - In addition to the producer application fee, each applicant must pay a fee of five dollars per acre for the land for which they are requesting transitional certification.

**WAC 16-157-230 Processor fee schedule.** Processors who wish to apply for the organic food certification program must apply to the department each year. Producers that process their own organic products pay application and certification fees under WAC 16-157-220.

(1) **Application fee.**

(a) **Renewal applicants** - Application fees are two hundred dollars per facility. In addition, renewal applications postmarked after March 1, must pay a late fee of seventy-five dollars.

(b) **New applicants** - Application fees are two hundred dollars per facility. In addition, new applicants must pay a one hundred dollar new applicant fee.

(2) **Certification fee** - A certification fee based on the following fee schedule must accompany the application. Certification fees are assessments on the organic products in each category. New applicants must base certification fees on an estimate of sales in each category. Renewal applicants must base certification fees on the previous calendar year's sales in each category. Applicants may have food products in more than one category.

**Category I - Organic food products:** Products labeled as "organic" or "one hundred percent organic" are assessed 0.30% of the previous calendar year's sales for the first million dollars and 0.11% for sales

above one million dollars.

**Category II - Made with organic food products:**

Products labeled as "made with organic ingredients" are assessed 0.20% of the previous calendar year's sales for the first million dollars and 0.07% for sales above one million dollars.

**Category III - Food products with organic ingredients:**

Products packaged for retail sales that limit their organic claims to the information panel are assessed 0.11% of the previous calendar year's sales for the first million dollars and 0.04% for sales above one million dollars.

**Category IV - Custom organic food products:**

Products produced by processors who charge a service fee to organic manufacturers for processing organic food are assessed at 0.40% of the previous calendar year's service fees received for processing organic food for the first million dollars and 0.11% for service fees above one million dollars.

In the event that the current calendar year's sales (or service fees) exceed the previous year's sales (or service fees) or estimate of sales, the department may bill the applicant for the additional certification fee. In the event that the current calendar year's sales (or service fees) are less than the previous year's gross sales (or service fees) or estimate of sales, the applicant may request a refund for the reduced certification fee.

**WAC 16-157-240 Handler fee schedule.** Handlers who wish to apply for the organic food certification program must apply to the department each year. Handlers that process organic food products must apply for organic certification under WAC 16-157-230. Retailers who wish to apply for the organic food certification program must apply for organic certification under WAC 16-157-245. Producers that handle only their own organic products do not need to obtain separate certification as handlers. All other handlers of organic food products may apply for organic certification under this section.

(1) Renewal applicants. Application fees must be based on the previous calendar year's sales of organic food. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the handler for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the handler may request a refund for the reduced fee. In addition, renewal applications postmarked after March 1 must pay a late fee of seventy-five dollars.

(2) New applicants. Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the handler for the additional fee. In the event that the current calendar year's sales are less than the estimate, the handler may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee.

(3) The cost per facility must be based on the following fee schedule. The appropriate fee must

accompany the application.

ORGANIC SALES		FEE
\$ 0	\$ 50,000	.....\$ 200
\$ 50,001	\$ 75,000	.....\$ 250
\$ 75,001	\$ 100,000	.....\$ 330
\$ 100,001	\$ 200,000	.....\$ 440
\$ 200,001	\$ 300,000	.....\$ 550
\$ 300,001	\$ 400,000	.....\$ 660
\$ 400,001	\$ 500,000	.....\$ 770
\$ 500,001	\$ 750,000	.....\$ 990
\$ 750,001	\$ 1,000,000	.....\$ 1,100
\$1,000,001	\$ 1,250,000	.....\$ 1,375
\$1,250,001	\$ 1,500,000	.....\$ 1,650
\$1,500,001	\$ 2,000,000	.....\$ 2,200
\$2,000,001	\$ 2,500,000	.....\$ 2,750
\$2,500,001	\$ 3,000,000	.....\$ 3,300
\$3,000,001	\$ 4,000,000	.....\$ 3,850
\$4,000,001	\$ 5,000,000	.....\$ 4,400
\$5,000,001	\$ 6,000,000	.....\$ 5,500
\$6,000,001	\$ 7,000,000	.....\$ 6,600
\$7,000,001	\$ 8,000,000	.....\$ 7,700
\$8,000,001	\$ 9,000,000	.....\$ 8,800
\$9,000,001	\$10,000,000	.....\$ 9,900
Over	\$10,000,000	.....\$11,000

**WAC 16-157-245 Retailer fee schedule.** Retailers who wish to apply for the organic food certification program must apply to the department each year.

(1) Renewal applicants. Application fees must be based on the previous calendar year's sales of organic products. In the event that the current calendar year's sales exceed the previous year's sales, the department may bill the retailer for the additional fee. In the event that the current calendar year's sales are less than the previous year's sales, the retailer may request a refund for the reduced fee. In addition, renewal applications postmarked after March 1 must pay a late fee of seventy-five dollars.

(2) New applicants. Application fees must be based on an estimate of the current year's sales of organic food. In the event that the current calendar year's sales exceed the estimate, the department may bill the retailer for the additional fee. In the event that the current calendar year's sales are less than the estimate, the retailer may request a refund for the reduced fee. In addition, new applicants must pay a one hundred dollar new applicant fee.

(3) The cost per facility must be based on the following fee schedule. The appropriate fee must accompany the application.

ORGANIC SALES		FEE
\$ 0	\$ 100,000	.....\$ 330
\$ 100,001	\$ 500,000	.....\$ 500
\$ 500,001	\$1,000,000	.....\$ 750
\$1,000,001	\$2,000,000	.....\$1,000
\$2,000,001	\$3,000,000	.....\$1,500
\$3,000,001	\$4,000,000	.....\$2,000
\$4,000,001	\$5,000,000	.....\$2,250
Over	\$5,000,000	.....\$2,500

**WAC 16-157-250 Inspections.** The director shall make at least one inspection and any additional inspections deemed necessary to each applicant each year to determine compliance with this chapter and chapter 15.86 RCW and rules adopted pursuant to chapter 15.86 RCW. This inspection may entail a survey of required records, examination of fields, facilities and storage areas, and any other information deemed necessary by the requirements of this chapter.

The annual on-site inspection and any additional inspections conducted for collecting samples or for surveillance within the state of Washington are provided for under the application and certification fees. Additional inspections, if necessary to determine compliance or requested, will be charged to the applicant at the rate of forty dollars per hour plus mileage set at the rate established by the state office of financial management. Out-of-state inspections, if necessary or requested, shall be at the rate of \$40/hr. plus transportation costs.

**WAC 16-157-255 Sampling.** A representative sample of the product may be tested for pesticide or other contaminants whenever the director deems it necessary for certification or maintenance of certification. Sample analysis is provided under the application and certification fees.

**WAC 16-157-260 Organic and transitional producer certification.**

(1) Organic producers certified under this chapter may use the organic producer logo, found in WAC 16-157-275, to identify organic products.

Transitional producers certified under this chapter may use the transitional producer logo, found in WAC 16-157-275, to identify transitional products.

(2) The director must review the application, inspection report and results of any samples collected to determine that the producer has complied with the conditions for organic or transitional certification. A certificate will be issued when the director determines that the producer has complied with the conditions for organic or transitional producer certification.

**WAC 16-157-270 Organic food processor and handler certification.**

(1) The director must review the application, inspection report and results of any samples collected to determine that the processor or handler has complied with the conditions for organic food certification. An organic food certificate will be issued when the director determines that the processor or handler has complied with the conditions for organic food certification.

(2) Processors certified under this chapter may use the organic processor logo, found in WAC 16-157-275, to identify organic products processed by the facility.

(3) Handlers certified under this chapter may use the organic handler logo, found in WAC 16-157-275, to identify organic products handled by the facility.

**WAC 16-157-275 Organic and transitional certification logos.**





**WAC 16-157-290 Export and transaction certificates.**

(1) Organic export and transaction certificates are issued to verify that a specific shipment of organic food products has been produced, processed, and handled in accordance with the 2001 National Organic Program, 7 CFR Part 205 or a foreign organic standard.

(2) Applications for export and transaction certificates must be submitted on forms furnished by the department. The applicant must furnish all information requested on the application. A separate application must be made for each export and transaction certificate.

(3) The fee for export and transaction certificates shall be forty dollars per application.